

UNITED STATES OF AMERICA,

v.

00-CR-6139CJS

**ORDER**


TIMOTHY GIVENS,

Defendant.

In accordance with the procedures set forth in United States v. Crosby, 397 F.3d 103 (2d Cir. 2005), the Court, having obtained the views of counsel for the parties upon defendant's petition for re-sentencing pursuant the Supreme Court's decision in United States v. Booker, 125 S. Ct. 738 (2005), and the United States having opposed the defendant's application; the Court, after a review of the facts and circumstances of this case, and having fully considered the various sentencing factors set forth in 18 U.S.C. § 3553(a), hereby determines that, for the reasons set forth in the attached bench decision transcript, it would not now impose a sentence that is "nontrivially different" from that previously imposed. Because any post-Booker sentencing would not be different than the sentence originally imposed, this Court determines that no re-sentencing is required and denies the defendant's application.

**IT IS SO ORDERED.**

DATED: Rochester, New York, September 15, 2005



HON. CHARLES J. SIRAGUSA  
United States District Court Judge

cc: Donald M. Thompson, Esq.